

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of MCImetro
Access Transmission Services LLC d/b/a
Verizon Access Transmission Services for
Arbitration of an Interconnection
Agreement with Embarq Minnesota, Inc.,
Pursuant to 47 U.S.C. § 252(b)

FIRST PREHEARING ORDER

A telephone prehearing conference was held June 13, 2007 before Administrative Law Judge Steve M. Mihalchick. The following persons participated:

Linda S. Jensen, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2131, appeared for the Department of Commerce (Department).

Joseph R. Stewart, Senior Counsel, Embarq, 50 W. Broad St., Suite 3600, Columbus, OH 43215, appeared for Embarq Minnesota, Inc. (Embarq).

Darrell Townsley, Assistant General Counsel, Verizon, 205 North Michigan Avenue, 11th Floor, Chicago IL 60601, and Lesley J. Lehr, Gray, Plant, Mooty, Mooty & Bennett, P.A., 500 IDS Center, 80 South Eighth St, Minneapolis, MN 55402, appeared for MCImetro Access Transmission Service Services LLC, d/b/a Verizon Access Transmission Services (Verizon).

Based on the discussions during the prehearing conference, and upon all of the files, the Administrative Law Judge makes the following:

ORDER

Parties, Participants and Intervenors

1. The current parties to this case are Verizon and Embarq. The Department of Commerce intends to participate as a party.

2. Any person desiring to become a formal party must file a Petition to Intervene by June 20, 2007. Any person petitioning to intervene after that date may be restricted as to the scope of their participation. Any existing party that wishes to object must file an objection within seven days of service of the petition. Petitions to Intervene should comply with Minn. R. 1400.6200.

Procedure

3. The Administrative Procedure Act and the rules applicable to contested cases¹ shall govern the conduct of the hearings in these matters. Provisions of these rules may be modified as necessary to accommodate recent statutory changes and to accomplish the statutory purposes.

Schedule

4. The following schedule is adopted:

EVENT	DATE
Verizon's and Embarq's Initial Testimony	June 28, 2007
Department of Commerce's Response to Verizon's and Embarq's Initial Testimony	July 26, 2007
Verizon's/Embarq's Reply Testimony	August 10, 2007
Hearing	August 22 and 23, 2007, 9:00 a.m. at the Office of Administrative Hearings.
All Parties' Initial Briefs	September 10, 2007
All Parties' Reply Briefs	September 24, 2007
ALJ's Proposed Order	October 24, 2007
Parties' Exceptions to ALJ's Proposed Order	November 7, 2007
Commission Final Order	December 7, 2007

5. Verizon and Embarq have agreed to the foregoing schedule and waived the completion date required by 47 U.S.C. § 252(b)(4)(C) of September 1, 2007, to December 7, 2007.

¹ Minn. Stat. §§ 14.57 – 14.62 (2006) and 1400.5010 – 8400 (2005).

Filing of Documents

6. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

7. Persons capable of doing so should E-file electronic versions of their documents on the E-File system of the Public Utilities Commission, (the E-File system). Prefiled testimony should be filed separately for each witness.

8. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

9. The original document shall be filed using the E-file system wherever feasible. Otherwise, the original document shall be filed by delivery or mail to:

Hon. Steve M. Mihalchick
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

10. OAH is moving. After September 19, 2007, the address will be:

Hon. Steve M. Mihalchick
Office of Administrative Hearings
600 Robert St N
St. Paul, MN 55155

11. After the Administrative Law Judges' Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission, in the manner provided for by the Commission.

12. Copies of all documents shall be served on the persons listed on the attached service list, in the number indicated. E-filing constitutes service on those parties that have agreed to accept e-filed documents in this docket. The list will be revised as necessary by the Office of Administrative Hearings. Service shall be made according to the most current service list served upon the parties by the Office of Administrative Hearings.

13. The effective date of filing shall be the date the document is E-filed, mailed by U.S. Mail, or delivered to the Administrative Law Judge or Executive Secretary of the Commission.

14. Proof of service shall be filed with each filed document or within three business days thereafter. Parties using the E-filing system must retain the unique document identifier as proof of service through that system.

15. If nonpublic data is filed with the Administrative Law Judge or Commission, it shall be prepared and marked in accordance with the Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. Those procedures may be viewed at www.puc.state.mn.us/docs/tradsecret.pdf. Nonpublic data must be served in hard-copy format by U.S. mail or personal delivery.

Discovery

16. Discovery between parties shall be by Information Request and response. Information Requests shall normally be made by e-mail to the party from whom the information is sought and a copy shall be e-mailed to all parties. Information Requests containing references to other documents shall be sufficiently detailed to inform the other parties of the nature of the request. Information Requests and responses shall not be sent to the Administrative Law Judge or the Court Reporter. The party responding to the Information Request shall provide the information requested within eight business days after receipt of the request. There shall be a continuing obligation to update and supplement information responses. The response need not be supplied as a matter of course to other parties unless specifically requested by a party. Information Requests received after 4:00 p.m. on business days or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.

17. In the event the information cannot be supplied within the required time, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party.

18. Parties asked to provide information they deem confidential or nonpublic may require the requesting party to comply with the terms of a reasonable protective agreement or the Minnesota Government Data Practices Act. A protective order may be obtained on application to the Administrative Law Judge.

19. Disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Notice of such a motion should be made by email if possible and may be heard by telephone conference among the Administrative Law Judge and affected parties.

Offering of Prefiled Testimony and Order of Testimony

20. At the hearing, prefiled testimony and exhibits shall be offered and received as hearing exhibits and exhibit numbers shall be assigned at that time.

Prefiled testimony that is amended in total or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be filed with the Administrative Law Judge and served on the parties no later than three days before the evidentiary hearing starts. E-filing shall be used where possible.

21. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct or rebuttal evidence shall not be offered in rebuttal or surrebuttal testimony and exhibits.

22. Unless the parties agree otherwise, the order of testimony and questioning at the hearing shall be: Verizon, Embarq, Department.

Examination of Witnesses

23. Witnesses shall be allowed five minutes to summarize their prefiled testimony. Additional time may be allowed if necessary or a witness to respond to new issues raised by other parties, if no response was previously allowed.

24. Parties shall examine and cross-examine witnesses through their attorneys

25. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party files and serves an objection prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Dated: June 13, 2007

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge